

**SUBCHAPTER 251**

**RELATIONSHIPS WITH ORGANIZATIONS REPRESENTING**

**FEDERAL EMPLOYEES AND OTHER ORGANIZATIONS**

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**SUBCHAPTER 251****RELATIONSHIPS WITH ORGANIZATIONS REPRESENTING****FEDERAL EMPLOYEES AND OTHER ORGANIZATIONS**

- References:**
- (a) DoD Directive 1400.25, "DoD Civilian Personnel Management System," November 25, 1996
  - (b) Title 5, Code of Federal Regulations, Part 251, "Agency Relationships with Organizations Representing Federal Employees and Other Organizations"
  - (c) Chapter 71 of title 5, United States Code
  - (d) DoD 5500.7-R, "Joint Ethics Regulation," 1994, authorized by DoD Directive 5500.7, August 30, 1993
  - (e) DoD Instruction 1000.15, "Private Organizations on DoD Installations," September 22, 1978
  - (f) Title 18, United States Code, Section 205
  - (g) Title 5, Code of Federal Regulations, Parts 550.311(b) and 550.331
  - (h) DoD 7000.14-R, "Department of Defense Financial Management Regulation," Volume 8, "Civilian Pay Policy and Procedures," January 1995, authorized by DoD Instruction 7000.14, November 15, 1992
  - (i) DoD Instruction 5010.30, "Intramanagement Communication and Consultation," May 2, 1989 (hereby canceled)

**A. PURPOSE**

This Subchapter implements Department of Defense (DoD) policy, prescribes procedures, delegates authority, and assigns responsibility concerning relationships with non-labor organizations representing Federal employees (e.g., management and professional associations) and other organizations. The Subchapter implements policies under references (a) through (h) and cancels DoD Instruction 5010.30 (reference (i)).

**B. DEFINITIONS**

1. Association of Supervisors and Management Officials. An association comprised primarily of management officials and/or supervisors, which is not eligible for recognition under Chapter 71 of title 5 of the U.S. Code or comparable provisions of other laws, and which is not affiliated with a labor organization or federation of labor organizations.

2. Labor Organization. An organization as defined in 5 U.S.C. 7103(a)(4) (reference (c)) whose membership consists exclusively or primarily of employees and that complies with 5 U.S.C. 7120 (reference (c)).

3. Organization Representing Federal Employees and Other Organizations. An organization, other than a labor organization, that can provide information, views and services that will

contribute to improved agency operations, personnel management, and employee effectiveness. Such an organization may be an association of Federal management officials and/or supervisors, a group representing minorities, women or persons with disabilities in connection with Equal Employment Opportunity programs and action plans, a professional association, a civic or consumer group, an organization concerned with special social interests, and the like.

### C. **POLICY**

It is the policy under DoD Directive 1400.25 (reference (a)) that:

1. Employees may join lawful management and professional associations and other organizations, consistent with DoD 5500.7-R (reference (d)).
2. Installation Commanders and Equivalent Management Officials shall:
  - a. Inform managers about developments affecting their work situations and provide them an opportunity to take part in making decisions concerning these developments;
  - b. Create a climate in which managers at all levels identify with management and take part actively in setting and attaining management goals, have a full understanding of management policies and interactions among organizational subunits, and have the information and assistance they need to represent management in relationships with employees and labor organizations;
  - c. Establish consultative relationships with management associations, as appropriate, in accordance with good management principles, applicable laws and regulations and this Subchapter; and
  - d. Bring management association(s) with which an official consultative relationship exists into the intramanagement consultative process in accordance with the procedures in this Subchapter. Such intramanagement communication should be in addition to, not instead of, individual contacts and exchanges of information and views basic to managerial relationships.
3. Installation Commanders or Equivalent Management Officials may, at their discretion and consistent with applicable statutes and regulations:
  - a. Establish relationships with organizations, other than associations of supervisors and management officials, when this would contribute to effective personnel management or improved operations or provide benefits to mission and programs. In making such determinations, installation commanders (or their equivalent) may wish to consider whether such a relationship will provide a service to employees who are members of the association or organization, contribute to the morale and welfare of employees, or promote an effective relationship with the local community and the general public.
  - b. Extend support to organizations or their members to the extent consistent with applicable laws and regulations, where this is in the best interests of the Department of Defense.

5 CFR 251.202(a)) (reference (b)) and DoD Instruction 1000.15 (reference (e)) provide some examples of support services that might be appropriate, consistent with the Joint Ethics Regulation (reference (d)).

4. 18 U.S.C. 205 (reference (f)) bars Federal employees from acting as agents or attorneys for any person or organization before any Federal agency or other Federal entity regarding any matter in which the United States is a party or has a direct and substantial interest, except if such activity is in connection with the performance of official duties. The law also provides that, so long as there is no conflict of interest, generally, an individual may represent any organization or group without compensation, if a majority of the members are officers or employees or spouses or dependent children of officers or employees of the United States or the District of Columbia. There are three exceptions:

- a. A claim under Subsection (a)(1) or (b)(1) of title 18 U.S.C. 205 (reference (f));
- b. A judicial or administrative proceeding where the organization or group is a party; and
- c. A grant, contract, or other agreement (including a request for such a grant, contract, or agreement) providing for disbursement of Federal funds to the organization or group.

(Because of the significant potential for confusion whether representation is permissible, managers and employees should consult their legal office if faced with any the foregoing situations.)

5. Relationships with associations and other organizations shall not conflict with Chapter 71 of 5 U.S.C. (reference (c)). In this regard, dealings with management and professional associations and other organizations shall not take on the character of negotiations over conditions of employment for employees eligible to be represented by a labor organization as defined under that reference.

6. In addition to this Subchapter, DoD 5500.7-R (reference (d)) should be consulted on establishing relationships with employee and other organizations.

#### **D. RESPONSIBILITIES**

1. The Deputy Assistant Secretary of Defense (Civilian Personnel Policy) (DASD (CPP)), or designee, shall issue uniform policies, procedures, and guidance concerning relationships with management and professional associations, and other organizations, and may establish relationships under this Subchapter.

2. The Heads of the DoD Components shall comply with, and may establish relationships under, the provisions of this Subchapter.

3. Installation Commanders or Equivalent Management Officials with Delegated Appointing Authority shall carry out, and may establish relationships under, this Subchapter.

## E. **PROCEDURES**

### 1. Establishment of Consultative Relationship

a. For a management or other association to establish a consultative relationship, it must show a level of membership support at an organizational level that is substantial enough to ensure a worthwhile dialogue with executive management and, therefore, to warrant establishment of the relationship.

b. Generally, an association must have an official consultative relationship with at least two DoD Components to receive consideration for establishment of such a relationship at the DoD level.

c. An association shall address a written request for establishing a consultative relationship to the DASD (CPP), the head of the DoD Component, or subordinate Component organizational level, as appropriate. The request shall include:

(1) A statement regarding why the association believes an official consultative relationship should be established;

(2) A copy of the association's current constitution and bylaws that must show the association is a lawful nonprofit organization that subscribes to minimum standards of fiscal responsibility and employs democratic principles in the nomination and election of its officers;

(3) A list of the current officers of the association and, where applicable, subordinate organizations (e.g., chapters); and

(4) A statement that the association does not discriminate in terms of membership or treatment on the basis of race, color, religion, sex, age, national origin, or handicapping condition.

d. An association may only be recognized provided:

(1) That it does not assist or participate in a strike, work stoppage or slowdown against the Government of the United States or any agency thereof or impose a duty or obligation to conduct, assist or participate in such strike, work stoppage or slowdown.

(2) That it does not advocate the overthrow of the constitutional form of government of the United States.

e. Where official consultative relationships exist, dealings may include meetings between association representatives and executive managers and may provide an opportunity for association representatives to assist in the design of policy or to review and comment on proposed policy relating to personnel management, planning, production, and other areas of management concern.

## 2. Termination of Consultative Relationship

If it is determined that an association does not meet the requirements of Section E.1. of this Subchapter, the DASD (CPP), the head of the DoD Component or subordinate Component organizational level, as appropriate, will notify the association of the intent to end the consultative relationship.

## 3. Dues Withholding

Employees may authorize an allotment for association dues as provided for under 5 CFR 550 and DoD 7000.14-R (references (g) and (h)).